

REFERENCE TITLE: water; wastewater; sewer; service rates

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1044

Introduced by
Senator Gray

AN ACT

AMENDING SECTIONS 9-511.01 AND 11-264, ARIZONA REVISED STATUTES; RELATING TO WATER, WASTEWATER AND SEWER SERVICE RATES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 9-511.01, Arizona Revised Statutes, is amended to
3 read:

4 9-511.01. Water and wastewater business: rates: procedures

5 A. A municipality engaging in a domestic water or wastewater business
6 shall not increase any water or wastewater rate or rate component, fee or
7 service charge without complying with the following:

8 1. Prepare a written report or supply data supporting the increased
9 rate or rate component, fee or service charge. A copy of the report shall be
10 made available to the public by filing a copy in the office of the clerk of
11 the municipality governing board at least thirty days ~~prior to~~ BEFORE the
12 public hearing described in paragraph 2 ~~of this subsection~~.

13 2. Adopt a notice of intention by motion at a regular council meeting
14 to increase water or wastewater rates or rate components, ~~fee~~ FEES or service
15 ~~charge~~ CHARGES and set a date for a public hearing on the proposed increase
16 ~~which~~ THAT shall be held not less than thirty days after adoption of the
17 notice of intention. A copy of the notice of intention showing the date,
18 time and place of ~~such~~ THE hearing shall be published one time in a newspaper
19 of general circulation within the boundaries of the municipality not less
20 than twenty days ~~prior to~~ BEFORE the public hearing date.

21 B. After holding the public hearing, the governing body may adopt, by
22 ordinance or resolution, the proposed rate or rate component, fee or service
23 charge increase or any lesser increase.

24 C. Notwithstanding section 19-142, subsection B, the increased rate or
25 rate component, fee or service charge shall become effective thirty days
26 after adoption of the ordinance or resolution.

27 D. ANY PROPOSED WATER OR WASTEWATER RATE OR RATE COMPONENT, FEE OR
28 SERVICE CHARGE ADJUSTMENT OR INCREASE SHALL BE JUST AND REASONABLE.

29 E. RATES AND CHARGES DEMANDED OR RECEIVED BY MUNICIPALITIES FOR WATER
30 AND WASTEWATER SERVICE SHALL BE JUST AND REASONABLE. EVERY UNJUST OR
31 UNREASONABLE RATE OR CHARGE DEMANDED OR RECEIVED BY A MUNICIPALITY IS
32 PROHIBITED AND UNLAWFUL.

33 Sec. 2. Section 11-264, Arizona Revised Statutes, is amended to read:

34 11-264. Authority to operate a sewage system: liens: sewage
35 system user fees

36 A. Any county with a population between five hundred thousand and one
37 million persons according to the most recent United States decennial census
38 may purchase, construct or operate a sewage system, including the collection,
39 transportation, pumping, treatment and disposal of sewage, and charge fees
40 and levy taxes therefor, provided the county secures the assent by resolution
41 of the governing bodies of those incorporated cities and towns representing
42 not less than one-half of the population of the county ~~prior to~~ BEFORE
43 purchase, construction or operation of a sewage system, provided that once an
44 initial assent is given no further assent is necessary to operate or improve
45 the system.

1 B. The provisions of this section are declaratory of existing law and
2 shall not affect the validity of the authorization or issuance of any bonds
3 by a county for sewage purposes.

4 C. A county may file a lien on property for the nonpayment of sewage
5 system user fees for services provided to the property if the payment of the
6 fees is delinquent for more than ninety days.

7 D. Before filing the lien, the county shall provide written notice to
8 the owner of the property. The notice shall be given at least thirty days
9 before filing the lien and shall include an opportunity for a hearing with a
10 designated county official. The notice shall be either personally served or
11 mailed to the property owner, at the last known address by certified mail, or
12 to the address to which the tax bill for the property was last mailed. If
13 the owner does not reside on the property, the notice shall be sent to the
14 last known address.

15 E. The unpaid sewage system user fees, from the date of recording in
16 the office of the county recorder in the county in which the property is
17 located, are a lien on the property until the fees are paid. The lien is
18 subject and inferior to the lien for general taxes and to all prior recorded
19 mortgages and encumbrances of record. A sale of the property to satisfy a
20 lien obtained under this section shall be made on judgment of foreclosure and
21 order of sale. A county may bring an action to enforce the lien in the
22 superior court in the county in which the property is located at any time
23 after the recording, but failure to enforce the lien by this action does not
24 affect its validity. The recorded unpaid sewage system user fees are prima
25 facie evidence of the truth of all matters recited in the recording and of
26 the regularity of all proceedings before the recording.

27 F. Unpaid sewage system user fees pursuant to this section accrue
28 interest at the rate prescribed by section 44-1201.

29 G. A prior assessment of unpaid sewage system user fees for the
30 purposes provided in this section does not bar a subsequent assessment for
31 these purposes and any number of liens on the same lot or tract of land may
32 be enforced in the same action.

33 H. ~~The provisions of~~ Subsection C of this section ~~do~~ DOES not apply to
34 residential property occupied by a lessee where the lessee is responsible for
35 payment of the sewage system user fees. The county shall determine the
36 status of leased residential property ~~prior to~~ BEFORE filing the lien.

37 I. SEWAGE SYSTEM FEES DEMANDED OR RECEIVED BY THE COUNTY SHALL BE JUST
38 AND REASONABLE. EVERY UNJUST OR UNREASONABLE SEWAGE FEE DEMANDED OR RECEIVED
39 IS PROHIBITED AND UNLAWFUL.